

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1749.01  
**COMPLAINT INVESTIGATOR:** Sandie Scudder  
**DATE OF COMPLAINT:** May 10, 2001  
**DATE OF REPORT:** June 8, 2001  
**REQUEST FOR RECONSIDERATION:** no  
**DATE OF CLOSURE:** June 27, 2001

**COMPLAINT ISSUES:**

Whether the Shelby Eastern Schools and the Blue River Special Education Cooperative violated:

-511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written.

**FINDINGS OF FACT:**

1. The student (Student) is 14 years old, is in 8<sup>th</sup> grade, and is eligible for special education and related services as a student with an other health impairment.
2. The IEP dated February 9, 2001, states that the Student will participate in all general education classes, but "may need to be taken out of class for assistance/help in special education setting." Checked under *Classroom Accommodations/Modifications* on the IEP is that the Student may "leave class for assistance."
3. The complainant asserts that the social studies teacher did not allow the Student to leave social studies class to go to the resource room. The social studies teacher states he did not deny the Student opportunity to go to the resource room. There is no documentation from either the Complainant or the School regarding the Student's access to the resource room.
4. After the Complainant visited the resource room, the TOR received a letter from the Complainant dated March 29, 2001, in which the Complainant stated that the resource room was more distracting than the general education classrooms. The Complainant advised the TOR that she would tell the Student to remain in the general education classrooms and not go to the resource classroom. The TOR states the Student did not come to the resource room after the Complainant's letter was received. The Complainant acknowledged sending the letter dated March 29, 2001, requesting that the Student not go to the resource room.

**CONCLUSION:**

Findings of Fact #2, #3, and #4 indicate that the Student's February 9, 2001, IEP provided for the Student to leave class to go to the resource room for assistance. Although the Complainant asserts that the social studies teacher prevented the Student from leaving class, the social studies teacher reports that the Student was allowed to leave social studies class for resource room assistance. Without documentation that the Student was permitted to leave the classroom to go to the resource room, the Division cannot determine that the School complied with the Student's IEP. Therefore, a violation of 511 IAC 7-27-7(a)

occurred.

**The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusion listed above.**

**CORRECTIVE ACTION:**

The Shelby Eastern Schools and the Blue River Special Education Cooperative shall submit an assurance statement that students' IEPs shall be implemented as written. The assurance statement shall be submitted to the Division no later than June 29, 2001.

DATE REPORT COMPLETED: June 8, 2001